

REMARKS

Upon entry of this response, claims 7-17 and 22-34 are pending and under consideration. Claims 1-6 and 18-21 were canceled in a prior response. No claims have been amended by way of this response. No new matter has been added by way of this response.

Applicants herein address the specific issues raised in the Notice of Non-Compliant Amendment of May 7, 2007, in which the Office asserts that Applicants have failed to properly elect species drawn to the claimed invention.

First, the Office indicates that claim 12 requires at least three enzymes wherein the third enzyme is NADH. It is noted that the Office required *species* restriction C(a-e), and Applicants have not asserted that claim 12 is readable on elected species C(b), which is “two enzymes”.

Applicants are not required to cancel claim 12, as such claim belongs to the same invention election group but a different species group.

Second, the Office asserts that the designation of claims 10-11 and 34 is not commensurate in scope with election of C(b), which is “two enzymes” because claim 34 requires at least three immobilized enzymes, including NADH immobilized on the electrode. Applicants have clarified that only claims 10-11 (*i.e.*, not claim 34) are readable on elected species C(b). Applicants apologize for any inconvenience to the Office caused by this oversight.

Third, the Office asserts “there is an issue whether claim 34, which was not originally presented, is patentably distinct from the electrode which is patentably different from that of the claimed apparatus of claim 34 which further contains an oxygen separation membrane that is not required by the electrode.” Applicants note that the oxygen separation membrane is a feature of claim 16, such claim also being within the present invention election group. And claim 34 has a narrower construction than, for example, claim 16 given the several additional features recited. As such, at least claims 16 and 34 are patentably distinct.

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Reply to Notice of Non-Compliant Amendment of May 7, 2007

CONCLUSION

Applicants believe that the claim as presented represents allowable subject matter. If the Examiner desires, Applicants welcome a telephone interview to expedite prosecution. As always, the Examiner is free to call the undersigned at the number below. Applicants believe there is no fee due at this time. The Commissioner is hereby authorized to charge any applicable fees with regard to this response to Deposit Account No. 19-3140.

Respectfully submitted,

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